July 16, 2007 – Meeting – Licensing Statute Workgroup

TEAM ONE:

Recommendation 1-1.   License all Business Brokers

- Add a definition of business broker 32-2101
  Or, as an alternative, enforce or clarify the existing statues to say that business brokers must be licensed.
- Concur w/the Commissioner's intent to repeal the current designation of Business Brokerage Specialist (BBS).

Reactions:
- Add BB designation?
- How is the public being harmed? How is the land negotiated? How is the broker involved? Who is the Department going to hold accountable?
- Training issues.
- 32-2101 (1993), if there is a lease a real estate license is required.
- Neighboring states –license requirement for Business Brokers? Special certification above? Separate licensure for BB?
- It does not appear that there is full consensus on this issue within the Workgroup

Recommendation on how to proceed:
- Debate in cyberspace???
- 100% in agreement for NO special designation through ADRE.
- Focus on more specialized training. Common law standard of care should drive the education component.

Recommendation 1-2. Create Provision for Surrender of License

- Propose adding "surrender" to the statute.

Reactions:
- Surrender in lieu of revocation? Need an explanation and admission of wrongdoing by licensee; surrendering alone is not sufficient.
- Has to be an admin action filed, or to expedite the hearing period.
- They agree they violated a law –admit to charges filed and then surrender. Legal document presented.
- "I surrender, will the Department still fine me?" Do they still need punishment if they chose to surrender?
- No real disagreement with this proposal.

Recommendation 1-3. Do Away With Cemetery License.

- Get ADRE out of the business of regulating cemetery salespersons.
- Does this area of sale truly fall under the guidance of ADRE?
- Does this area need regulating?

Reactions:

- ■ Is this a problem?
- ■ If ADRE doesn't regulate, who will?

Recommendation 1-4. Clarify Law on Clandestine Drug Labs.

Reactions:

- Match up intent with letter of law
- Required to disclose
- 32-2156 stigmatized properties –surrounding property disclosure.
- Meth Lab Bill
- Environmental Analysis completed
- "in the vicinity"
- Reasonable level of consensus on this. ..
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Recommendation 1-5. Clarify 32-2121.

Sections A.1. and A.17. are confusing.

Reaction: none

TEAM TWO:

Recommendation 2-1. Make E&O Insurance Mandatory (at the Brokerage Level)

- A State operated E&O pool
- Pool Admin through a 3rd party administrator, w/ negligible financial impact on ADRE's budget.
- Ability for licensees to obtain same levels/limits of E&O
- Proof of insurance prior to activating license.

- Mandatory E&O-similar to Colorado
- E&O required to report all claims to ADRE for f/up investigations

Concerns:
- Admin burden if adopted?
- Will E&O policies encourage lawsuits?
- Will real estate licensees be less diligent in their conduct of real estate?
- There appears to be general consensus that this proposal is a good idea; less consensus on how it might be implemented.

Recommendation 2-2. Clarify & Define "Reasonable Supervision"

- Establish a fair safety net for brokers
- Encouraging cooperative relationships between the Department and Real Estate Brokers
- Not much debate on this yet, but doesn't appear that there is much consensus either. . .

Recommendation 2-3. Create an In-Depth Brokerage Administration Course.

- Propose brokerage admin course statute based on the Colorado Model
- 24-hour course for Designated Brokers

Feedback?
- Broker managers (included in mandate) and branch managers.
- Also temp. brokers.
- Time frame for new Brokers? Exemptions?
- Pretty good consensus on this (but not universal, yet). . .
- This will probably mesh nicely with the work of the Education Workgroup

Recommendation 2-4.   Relax Restrictions on Trade Names.

- current system operated by ADRE should "go away."
- Need a piggy back system.
- Take cap off or limitation and have multiple.
- Is there public interest here?
- There was nothing presented to the group in writing on this, so there was nothing for the group to react to or debate.
- Don't know if there is any support for this recommendation or not. . .

TEAM THREE

Recommendation 3-1. Improve Process & Timeliness of Criminal Background Checks

- Need mechanism to have background completed prior to licensure.
- Defer the issuance of a license until the fingerprint results are returned and analyzed.
- Work with the Schools –educate about the process.
- Other considerations to deal with exceptions. –consult DPS?
- If the Department proceeds with an SPS on this it would be good. . .

Recommendation 3-2. Perform Search for Civil Judgments as Part of Background Checks.

- Is this feasible?
- Is there a mechanism for National check of civil records?
- Is it likely to be worth the effort and cost?
- Judgment exercised by employees to run search, case-by-case review process for applicants
- Protect the public
- Aware of any other states with this mechanism? Labor intensive?
- No real disagreement with concept, but a lot of concern over feasibility and cost.

Recommendation 3-3. Establish Qualifications of Licensees for Sales in Mexico.

- Arizona Licensees representing Arizona citizens in purchases in Mexico should have proper understanding of Mexican Real estate
- State of Sonora implementing a licensure requirement (120 hours)
- Article 11 of Commissioner's Rules –only deal in areas of competence.
- Mount campaign to educate AZ citizens.
- Need to gain proficiency in this area (licensees).
- Is there an education solution?
- Some consensus on this.. . but not unanimous.

Recommendation 3-4. Reconsider Whether Dual Agency Should Be Allowed.

Recommendation is simply that ADRE and AAR put this topic on the agenda for some serious discussion.

Recommendation 3-5. Find Better Ways to Educate Public on Real Estate Transactions.

Recommendation is simply that ADRE and AAR get together and figure out a better way to educate the public on their rights and responsibilities in real estate matters, and on what they can and cannot expect of licensees.